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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES Division of Water Rights

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To the Lower Fremont River Water Users:

Since the annual meeting on February 1<sup>st</sup>, I have given some thought to the issue of how the water commissioner should be selected on the Lower Fremont River and I have discussed it with the Attorney General's Office. My main concern is that all water users are allowed to vote according to the law, that we take into consideration the special conditions that exist on the lower Fremont River, and that as much as possible there is a consensus among the water users concerning the appointment of the commissioner.

Section 73-5-1 of the Utah Code states in part:

The state engineer shall consult with the water users before appointing a commissioner. The form of consultation and notice to be given shall be determined by the state engineer so as to best suit local conditions, while providing for full expression of majority opinion. ... If a majority of the water users do not agree, ... the state engineer shall make a determination for them.

After consulting with the Attorney General's Office it has been determined that the following voting procedure will be used in order to meet the conditions of the law stated above and to meet the goals outlined above.

The statute refers to the majority of the water users, therefore, each water user will be allowed one vote regardless of the size of the water right owned by the water user. In this situation, a water user is defined by the state engineer as the owner of a water right (essentially anyone who receives an assessment notice from the state engineer for the Lower Fremont River Distribution System).

Because conditions on the lower part of the system are substantially different than conditions on the upper end of the system, the concerns of the water users in these two areas are also different. It is important therefore that the water users in each portion of the river have an equal voice in the selection of the water commissioner. To accomplish this the system will be divided into two groups, an upper group and a lower group. The water users within each group will vote to determine who the group would recommend as water commissioner. There must be a consensus between the two groups before the water users can recommend a person to the state engineer to be appointed as water commissioner. The water users included in the two groups are listed below:

LOWER GROUP

Hanksville Canal Company  
Caineville Canal Company  
Sims, Forrest  
CEJA Corporation  
Durfey, Keith

UPPER GROUP

Alexander, John  
Burnett Twin Springs Ranch LLC  
Callis, Charles  
Capitol Reef Natl. Monument  
Crowther, Terence  
Daughters, Paul  
Ellett, Mont  
Frankel, Lionel  
Hickman, Kay  
Jensen, Richard  
Kankainen, Eric

Karl, Don Taylor  
Lewis, Robert  
McCullough, James  
Mehling, Christopher  
Navajo Trails Adventure Camp  
Poulton, Robert  
Shail, Retha  
State Stone Corporation  
Strickwerda, Derk  
Torrey Irrigation Company  
White, Edward

It may be necessary to go through several votes before a consensus can be achieved. If the water users are unable to reach a consensus by the above described method, then according the statute quoted above, the state engineer will make a determination for the water users and appoint a commissioner without a water users' recommendation.

Interviews for the position of water commissioner will be held in the Loa County Courthouse on Wednesday March 1, 2006 starting at 1:00pm. Once the applicants have been interviewed by the water users and the staff from the Division of Water Rights, the applicants will be excused and the water users will vote according to the above procedure. Only those water users attending the meeting will be allowed to vote. Water users may vote by proxy for absent water users if they present at the meeting a written authorization from the absent water user.

If you have any questions concerning the voting procedure or other general questions regarding the appointment of a water commissioner, please contact me by phone at (801)538-7380 or by e-mail at [LeeSim@utah.gov](mailto:LeeSim@utah.gov).

Respectfully,



Lee H. Sim, P.E.  
Assistant State Engineer

cc: Kirk Forbush, Regional Engineer